

From: [Bradley, Dave \(ECY\)](#)
To: Szelag.Matthew@epamail.epa.gov
Cc: [Asher, Chance \(ECY\)](#); [Niemi, Cheryl \(ECY\)](#); [Gildersleeve, Melissa \(ECY\)](#)
Subject: SMS Rule Meeting - June 28
Date: Monday, June 27, 2011 11:47:51 AM
Attachments: [Conceptual Model for Incorporating MTCA Cleanup Requirements into the Sediment Management Standards.docx](#)

Matt et al.

Sounds like we are on for tomorrow at 11 am in the Columbia Room.

We are looking forward to meeting with you and discussing the SMS rule revisions. To facilitate that discussion, I have attached a short document that illustrates some of the sediment cleanup requirements and concepts we are trying to incorporate into the SMS rule. It is a work in progress and inevitably will change based on additional Ecology review, discussions with EPA and broader stakeholder discussions scheduled for this fall.

I have identified three main goals for tomorrow's meeting. These goals seem (at least to me) to provide a logical way to organize the meeting.

1. Explain the types of rule changes is Ecology considering. Chance and I can briefly explain our current proposal for sediment cleanup requirements and approaches for establishing a default fish consumption rate.

2. Identify key rulemaking questions. It is probably an understatement to say that there are a number of process, policy and implementation issues associated with amending the SMS rule. We have identified some general questions related to the rule revisions. Each of these questions probably have multiple sub-questions. Hopefully, we can spend some time making sure we are asking the right questions.

- Process: What type of EPA review will be required under the Federal Clean Water Act? If EPA reviews/approves a default fish consumption rate for sediment cleanup, what are the implications for other Ecology activities that are designed to meet CWA requirements?

- Policy: Are the draft general risk policies and procedures compatible with CWA guidance?

- Implementation: If EPA approves a default fish consumption rate under the CWA, what level of EPA review will be required for case-by-case cleanup decisions on fish consumption rates?

- Other Issues: Are there other issues/questions that you believe Ecology will need to consider when revising the SMS rule? For example, the different approaches used to take into account background concentrations under the Model Toxics Control Act and Clean Water Act.

3. Identify process for answering questions. What is the best way for the two agencies to work through these issues?

Sorry for the late e-mail. If you have questions prior to the meeting, I can be reached at the number below.

Dave Bradley
Toxics Cleanup Program
Information and Policy Section
(360) 407-6907

-----Original Message-----

From: Szelag.Matthew@epamail.epa.gov [<mailto:Szelag.Matthew@epamail.epa.gov>]
Sent: Monday, June 20, 2011 11:12 AM

To: Bradley, Dave (ECY)
Cc: Asher, Chance (ECY); Niemi, Cheryl (ECY); Gildersleeve, Melissa (ECY)
Subject: RE: Reminder

Hi Dave,
We'll be meeting in our Columbia conference room on the 12th floor,
which is the same floor that visitors need to check in at.

See you then.

Matthew Szelag
US EPA Region 10
1200 Sixth Ave, Suite 900
Seattle, WA 98101
Phone: 206-553-5171

From: "Bradley, Dave (ECY)" <dbra461@ECY.WA.GOV>
To: "Niemi, Cheryl (ECY)" <cnie461@ECY.WA.GOV>, Matthew
Szelag/R10/USEPA/US@EPA
Cc: "Asher, Chance (ECY)" <CASH461@ECY.WA.GOV>, "Gildersleeve,
Melissa (ECY)" <MGIL461@ECY.WA.GOV>
Date: 06/20/2011 10:58 AM
Subject: RE: Reminder

Matt -

Sounds like 11 to 1 will work. Please let us know what room we will be
meeting in at EPA.

Dave

-----Original Message-----

From: Niemi, Cheryl (ECY)
Sent: Monday, June 20, 2011 8:12 AM
To: Szelag.Matthew@epamail.epa.gov; Bradley, Dave (ECY)
Cc: Asher, Chance (ECY); Gildersleeve, Melissa (ECY)
Subject: RE: Reminder

11:00 to 1:00 works for me.

Cheryl A. Niemi
Surface Water Quality Standards Specialist
Department of Ecology
P.O. Box 47600
Olympia WA 98504
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cheryl.niemi@ecy.wa.gov

-----Original Message-----

From: Szelag.Matthew@epamail.epa.gov [
<mailto:Szelag.Matthew@epamail.epa.gov>]

Sent: Wednesday, June 15, 2011 3:45 PM
To: Bradley, Dave (ECY)
Cc: Asher, Chance (ECY); Niemi, Cheryl (ECY); Gildersleeve, Melissa (ECY)
Subject: RE: Reminder

Hi Dave,
I have a potential conflict with another meeting from 10-11. Would it still work for everyone if we met on June 28th from 11:00 to 1:00 instead?

Thanks,

Matthew Szelag
US EPA Region 10
1200 Sixth Ave, Suite 900
Seattle, WA 98101
Phone: 206-553-5171

From: "Bradley, Dave (ECY)" <dbra461@ECY.WA.GOV>
To: Matthew Szelag/R10/USEPA/US@EPA, "Niemi, Cheryl (ECY)" <cnie461@ECY.WA.GOV>
Cc: "Asher, Chance (ECY)" <CASH461@ECY.WA.GOV>, "Gildersleeve, Melissa (ECY)" <MGIL461@ECY.WA.GOV>
Date: 06/15/2011 03:12 PM
Subject: RE: Reminder

Matt et al.

Based on the exchange of voice messages, it looks like June 28th (10-12 am) might work for a meeting to discuss SMS rule revisions. I am assuming Ecology folks would travel to Seattle.

Does this work for everyone?

Dave

-----Original Message-----

From: Szelag.Matthew@epamail.epa.gov [<mailto:Szelag.Matthew@epamail.epa.gov>]
Sent: Monday, January 31, 2011 1:28 PM
To: Niemi, Cheryl (ECY)
Cc: Asher, Chance (ECY); Bradley, Dave (ECY); Gildersleeve, Melissa (ECY)
Subject: RE: Reminder

All,
Here is the Tudor Davies memo on natural background that was brought up during the call today.

(See attached file: naturalback.pdf)

Matthew Szelag
US EPA Region 10
1200 Sixth Ave, Suite 900
Seattle, WA 98101
Phone: 206-553-5171

From: "Niemi, Cheryl (ECY)" <cnie461@ECY.WA.GOV>
To: "Asher, Chance (ECY)" <CASH461@ECY.WA.GOV>
Cc: "Bradley, Dave (ECY)" <dbra461@ECY.WA.GOV>, "Gildersleeve, Melissa (ECY)" <MGIL461@ECY.WA.GOV>, Matthew Szelag/R10/USEPA/US@EPA
Date: 01/26/2011 02:21 PM
Subject: RE: Reminder

Thanks Chance.

I'd like to attend both meetings by conference line. If time allows, I'd like us to discuss, during the 12-1 timeframe, how we can work with EPA to get clarification on the following issues (most of which were discussed or alluded to during the Jan. 12 conference call), and potential timeframes associated with that work. These are a mix of both CWA issues and discussion of how Ecology would implement...:

- Approaches to putting a FCR into the sediment management standards (SMS) that would not need CWA approval (guidance value approach such as Matt suggested)
- How that FCR could be used without tripping CWA requirements. Could it be used for sediments without being an interpretation of the narrative sediment human health criterion in the SMS?
- If we can't use it without tripping CWA requirements, then how to resolve the differences between the 30-year duration of exposure in the MTCA equation and the 70-year duration of exposure in the water quality criteria equation. Need to determine whether the designated uses that are fully protected by the current water quality criteria (using 70 year duration of exposure) would also be fully protected using an duration of exposure of 30 years. Would Ecology need to calculate sediment criteria based on 70 years and apply them to the site for CWA purposes? What equation would we use for that, and if we do not have an equation in the SMS maybe this is not an issue at all???
- If we somehow must calculate sediment criteria , can

anthropogenically influenced background ambient concentrations be used to replace the sediment criteria in 303(d) listed waterbodies for purposes of TMDLs? I am thinking that if we have CWA sediment criteria we will be listing waterbodies based on those criteria, and TMDL targets are based on criteria, not on ambient background levels (unless those background levels fit the definition of “natural conditions or natural background levels” contained in the Washington water quality standards). Let’s talk about this. Will be an extremely big issue with stakeholders if we need to use CWA sediment criteria values in these situations.

· Other topics besides fish consumption rates will be looked at in the SMS rule revision. Let’s just quickly go through them and discuss how we can expedite working with EPA to find ways to determine whether the changes appear to be CWA related.

Please send me call-in information.

Thanks,

Cheryl

Cheryl A. Niemi
Surface Water Quality Standards Specialist Department of Ecology P.O.
Box 47600 Olympia WA 98504 360.407.6440 cheryl.niemi@ecy.wa.gov

From: Asher, Chance (ECY)
Sent: Wednesday, January 26, 2011 1:18 PM
To: Szelag.Matthew@epamail.epa.gov; Niemi, Cheryl (ECY)
Cc: Bradley, Dave (ECY)
Subject: Reminder

Matt and Cheryl,

Just wanted to remind you of the two meetings we had discussed at the end of our January 12 meeting. They are scheduled for Monday, January 31 at EPA’s Seattle office, Room 12B (12th floor conference room).

The first meeting is from 10 AM – Noon with EPA cleanup staff where we will present the issues we are working through and the direction we are considering regarding the Sediment Management Standards rule revisions. This is an opportunity to get more EPA staff up to speed on our deliberations regarding the rule revisions. We would welcome your attendance if you can fit it into your schedules.

The second meeting is from Noon – 1 PM (in the same room). We had discussed that this would be a good opportunity to follow up on our January 12 discussion regarding the SMS rule revisions and CWA issues. If attendance in person is difficult, I am sure we could have folks set up a phone for us.

Would you please let me know if this schedule works for you and if there are any pressing issues outside of the ones identified on January 12 that you would like to discuss.

Chance Asher
WA Department of Ecology, Toxics Cleanup Program Aquatic Lands Cleanup
Unit Supervisor PO BOX 47600 Lacey, WA 98504-7600
(360) 407-6914